



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

July 23, 2002

RE: Co-manager Review of the draft policy for the consideration of hatchery fish in ESA listing decisions for Pacific Salmon and Steelhead

Dear Co-manager,

As you are aware, the National Marine Fisheries Service (NOAA Fisheries) is in the process of drafting a new policy (hereafter, the "Listing Policy") for the consideration of artificially propagated salmon and steelhead in Endangered Species Act (ESA) listing determinations. This policy is part of our response to the U.S. District Court ruling in Alsea Valley Alliance v. Evans (Alsea decision) which held that we made an improper distinction under the ESA by not listing certain artificially propagated salmon populations that were considered a part of the same Evolutionarily Significant Unit (ESU) as listed natural populations. This new policy is intended to ensure, in accordance with the Court's ruling, that hatchery populations are considered in determining whether or not to list an ESU under the ESA. The policy will more clearly articulate how the agency will consider artificial propagation in conducting ESA status reviews and listing determinations for Pacific salmon and steelhead.

At this time, we are distributing this working draft only to state and tribal natural resource agencies, the U.S. Fish & Wildlife Service, and the U.S. Department of Justice (collectively referred to as "co-managers" in this letter; see the enclosed list of reviewers). Although the list of recipients includes entities that may not have management authority for Pacific salmon and steelhead, we are interested in seeking advice from a broad set of co-managers with technical and policy expertise in fish and wildlife management issues. Your early involvement is an essential component of developing a proposed policy for public comment. Enclosed for your review and comment is a working draft of the Listing Policy. **NOAA Fisheries will consider comments only from co-managers during this early policy-building process.**

The enclosed working draft represents the agency's preliminary conceptualization of this policy, and the issues relevant to its development. In this initial review process we seek your expert technical and policy assistance in developing a proposed policy for public comment. Please provide your comments by Friday, August 16, 2002. As part of this initial review process, we will arrange meetings at the staff and policy level to discuss the draft and your comments. Following co-manager review and revision of this working



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draft, the policy will be formally proposed and go through a crucial public review process, including further opportunity for tribal, state, and federal co-manager input.

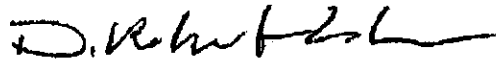
The Listing Policy that NOAA Fisheries eventually proposes will address ESA section 4 listing determinations for Pacific salmon and steelhead only. Under this working draft:

- (1) The natural and hatchery populations that comprise an ESU would be determined *prior* to the status assessment for the ESU. In past status reviews NOAA Fisheries first identified the natural populations comprising an ESU, then determined the status of these populations, and subsequently considered which hatchery populations were also part of the ESU.
- (2) Assessments of extinction risk, or the risk of endangerment, would be based on the likelihood that an ESU as a whole is sustaining itself through natural reproduction in its natural ecosystem over the long term.
- (3) Both the positive and negative effects of artificial propagation will be considered in ESA status reviews and listing determinations. This consideration will be given in the context of whether artificial propagation represents a protective effort that provides a genetic reserve for the ESU, contributes to long-term self-sustainability of the ESU in the natural ecosystem, or reduces threats to the ESU through the reform of harmful hatchery practices.
- (4) If an ESU as a whole warrants listing, all populations in an ESU will be listed whether they are of natural or hatchery origin, as prescribed by the *Alsea* decision.

Consideration of existing artificial propagation programs in ESA listing decisions under the Listing Policy is distinct from guidance for designing and operating artificial propagation programs. To avoid confusion the latter will be addressed in separately issued guidelines. The guidelines will address the design and implementation of artificial propagation programs for the purpose of supporting tribal treaty fisheries, recreational and commercial fisheries, species reintroduction and restoration efforts, and species conservation efforts. The drafting of these guidelines will be done in cooperation with tribal, state, and federal co-managers. We will seek co-manager cooperation in drafting the guidelines this summer. There will be substantial opportunity for public review and comment following the drafting of the guidelines.

Enclosed you will also find a *Questions & Answers* document regarding the enclosed working draft and the co-manager review process, the scope of the Listing Policy, issues relevant to the development of this policy, and the relationship of the policy to NOAA Fisheries' upcoming artificial propagation guidelines. Please feel free to distribute this cover letter and the enclosed *Questions & Answers* to interested parties seeking information on the Listing Policy under development. Please contact Mr. Garth Griffin (503-231-2005) with any questions regarding the draft, the review process, or to arrange a meeting. Inquiries concerning the artificial propagation guidelines should be directed to Mr. Robert Jones (503-230-5427). I look forward to this joint effort in developing a proposed Listing Policy that reflects our shared vision. In advance, I thank you for your care and efforts in this initial review process.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Robert Lohn". The signature is fluid and cursive, with a long horizontal stroke at the end.

D. Robert Lohn
Regional Administrator

Enclosures (3)